

## **Title 6: Economic Development**

### **Part 8: Administrative Review Procedure for Regulations Governing Seismic Exploration on State Owned Marine Waters and Regulations Governing Leasing for Production or Extraction of Oil, Gas and Other Minerals from State-Owned Marine Waters**

#### **Part 8 Chapter 1: Purpose and Procedure**

*Rule 1.1 Purpose.* This procedure is the exclusive method for seeking administrative review of an action taken by the Mineral Leasing Division, a division of the Mississippi Major Economic Impact Authority (MMEIA).

Source: Miss. Code Ann. §§ 29-7-19; 29-7-21 (Rev. 2010).

*Rule 1.2. Actions Subject to Administrative Review.* Any person or interested party aggrieved by any final rule, regulation, permit or order may file a petition pursuant to Miss. Code Ann. §29-7-21 (Rev. 2010), requesting administrative review of such final rule, regulation, order or issuance, denial, modification or revocation of a permit by the Mineral Leasing Division of MMEIA

Source: Miss. Code Ann. §29-7-21 (Rev. 2010)

*Rule 1.3 Petition for Hearing.*

- A. The person or interested party petitioning for a hearing must file a written petition with the Executive Director of MMEIA, 501 N. West Street, P.O. Box 849, Jackson, Mississippi, 39205-0849 not later than thirty (30) calendar days from the date that any final rule, regulation, order or issuance, denial, modification or revocation of a permit is entered on the minutes of MMEIA. If no petition for review is filed within the above stated time, the action shall become final.
- B. The petitioner must ask for a hearing and specify within its petition the grounds and reasons upon which administrative review of the decision is sought. The petition must clearly indicate the type of remedy requested and name the contact representative for the petitioner.
- C. MMEIA shall acknowledge receipt of the petition for a hearing within seven (7) days of receipt. Such acknowledgement shall designate the Hearing Officer, if appropriate.
- D. The Executive Director or designated Hearing Officer shall set a hearing date which shall not be later than thirty (30) calendar days from the date of mailing of the acknowledgement of the petition, unless the parties agree to a later date. All parties shall be notified in writing of the time and place of the hearing.
- E. The Executive Director or the Hearing Officer shall provide for a court reporter to record the hearing.
- F. Filing of a petition shall not stay the effect of the MMEIA action.

Source: Miss. Code Ann. §§ 29-7-19; 29-7-21 (Rev. 2010).

*Rule 1.4. Hearing Officer.* The Hearing Officer, if designated by the Executive Director, shall be an independent and impartial person other than, and not accountable to, any person authorized to make decisions that are subject to appeal under provisions of this section.

Source: Miss. Code Ann. §§ 29-7-19; 29-7-21 (Rev. 2010).

*Rule 1.5 Hearing.*

A. The Mineral Leasing Division of MMEIA shall first present its analysis and recommendation through testimony, exhibits and other admissible evidence. A representative of MMEIA shall be allowed to attend the hearing as a representative of the agency. The petitioner shall then present its position as to the grounds on which the petition is based by testimony, exhibits and other admissible evidence. All witnesses are subject to cross-examination by the opposing party and by the Hearing Officer.

B. The petitioner may retain legal counsel at its own expense.

C. Failure of the petitioner or its counsel to appear at a scheduled hearing shall constitute waiver of the hearing.

D. All hearings shall be conducted in such a manner that all parties have a fair and reasonable opportunity to present witnesses and other evidence pertinent to the issues. In conducting the hearing, the Executive Director or Hearing Officer shall not be bound by common law or by statutory rules of evidence or by technical or formal rules of procedures, but may conduct the hearing in such a manner as best to ascertain the rights of the parties.

E. The Executive Director or designated Hearing Officer may issue subpoenas on the written request of any party. It shall be the responsibility of each party to secure the service of subpoenas and the expense connected therewith shall be borne by the party requesting issuance of same.

Source: Miss. Code Ann. §§ 29-7-19; 29-7-21 (Rev. 2010).

*Rule 1.6 Recommendation of Hearing Officer.* If a hearing is conducted by a Hearing Officer, he shall prepare a finding of fact and recommended decision which will be forwarded to the Executive Director within twenty (20) days of completion of the hearing. A copy of the recommendation will be sent to petitioner and to the Director of Mineral Leasing by certified mail return receipt requested.

Source: Miss. Code Ann. § 29-7-21 (Rev. 2010)

*Rule 1.7 Decision by Executive Director.*

A. After the conclusion of a hearing conducted by the Executive Director, a final decision shall be issued within twenty (20) days of the conclusion of the hearing and entered on the minutes of MMEIA.

B. If the hearing is conducted by a Hearing Officer, after review of the record of the hearing, finding of fact and recommended decision of the Hearing Officer, the Executive Director shall issue a final decision. This final decision shall be entered on the minutes of MMEIA within fifteen (15) calendar days of receipt of the record of the

hearing and the recommendation of the Hearing Officer. A decision adopting the recommendation of the Hearing Officer need not contain any additional reasoning.

C. The decision of the Executive Director shall be sent by certified mail return receipt requested to the petitioner and the Director of Mineral Leasing. The decision of the Executive Director is final.

Source: Miss. Code Ann. § 29-7-21 (Rev. 2010)

*Rule 1.8 Appeal to Chancery Court.*

A. The aggrieved party may appeal to the Chancery Court of the First Judicial District of Hinds County, Mississippi within 30 days of the date the final decision of the Executive Director is entered on the minutes of MMEIA pursuant to Miss. Code Ann. § 29-7-21 (Rev. 2010) by filing a petition for appeal with the MMEIA.

B. The MMEIA shall, no later than 60 days after approval of the appeal bond, file with the Chancery Clerk a copy of the petition for appeal and of the rule, regulation, permit or order appealed from and the original and one copy of the transcript of the record of the proceedings in evidence before MMEIA. Filing of such appeal shall not stay or suspend the operation of any rule, regulation, permit or order.

Source: Miss. Code Ann. § 29-7-21 (Rev. 2010)

*Rule 1.9 No Waiver of Immunity.* Nothing in the appeal procedure shall be construed as a waiver of the immunities from suit conferred upon the State of Mississippi, MDA, MMEIA or any of its employees, officers, agents or designees, under the Eleventh Amendment of the United States Constitution and the Constitution and the laws of the State of Mississippi.

Source: Miss. Code Ann. § 29-7-21 (Rev. 2010)